

As a preliminary matter, Applicant asserts that the restriction is improper. While the Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)), the subject matter is sufficiently related that a thorough search for the subject matter of one of the species would encompass a search for the subject matter of the other species. *See* MPEP §803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

This policy should apply in the present application to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office, especially as the prior examiner in this case, did in fact, examine all of the claims and issue not one, *but two* office actions on the merits in this case. This fact alone demonstrates that was no “serious burden” in examining all of the pending claims. Moreover, Applicants were forced to expend substantial time and expense in responding to two previous office actions, as well as the present election/restriction requirement, resulting in a year long delay in prosecution of this matter. Therefore, it is respectfully requested that the restriction requirement be withdrawn, and that each of the claims 1-29 presently pending in the application be examined.

Applicants respectfully submit that even if distinct, the subject matter of the Groups is sufficiently related that a thorough search for the subject matter of Group II would encompass a search for the subject matter of Group I. *See* MPEP § 803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Therefore, it is respectfully requested that the restriction requirement be withdrawn, and that each of the claims 1-29 presently pending in the application be examined.

At this time, Applicants elect Group II, with traverse. In view of the significant overlap between the claims of Group I, it is respectfully submitted that the Examiner will be required to search art related to Group I as part of the analysis of the claims for Group II. An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Application No.: 10/803,698

Docket No.: 65937-0047

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65937-0047 from which the undersigned is authorized to draw.

Dated: May 30, 2007

Respectfully submitted,

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